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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,321	09/22/2005	Karl Thiele	US030084US	6538
24737	7590	01/15/2009	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			ROSENAU, DEREK JOHN	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			2834	
MAIL DATE	DELIVERY MODE			
01/15/2009	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* KARL THIELE

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Application 10/551,321  
Technology Center 2800

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Mailed: January 15, 2009

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Before KAREN SWEENEY, *Paralegal Specialist*.

SWEENEY, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on April 12, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is wherewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

APPEAL BRIEF

Summary Of Claimed Subject Matter

On September 19, 2007, Appellant filed an Appeal Brief. A review of the file reveals that the “Summary of Claimed Subject Matter” does not map each of the dependent claims to the Specification. Further, regarding claims 5, 7, 18, 21, 23, 34, 39, 41, 52, 60, 62 and 73 Appellant must provide support for the “means for” for language, as set forth in 37 C.F.R. § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Proper correction of the Appeal Brief is required.

When the Office holds the brief to be defective solely due to appellant’s failure to provided a summary of the claimed subject matter as required by 37 C.F.R. § 41.37(c)(1)(v), an entire new brief need not, and should not be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 C.F.R. § 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office’s requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

Application 10/551,321

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on September 19, 2007, defective;
- 2) notify Appellant to file a paper providing a Summary of the Claimed Subject Matter as required by 37 C.F.R. § 41.37(c)(1)(v), and properly addressing claims 5, 7, 18, 21, 23, 34, 39, 41, 52, 60, 62 and 73;
- 3) consider the Paper, and if necessary vacate the Examiner's Answer and supply a new Examiner's Answer in response to the Summary of the Claimed Subject matter as required by 37 C.F.R. § 41.37 (c)(1)(v); and
- 4) for such further action as may be deemed appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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